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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re M.R., a Person Coming Under the  
Juvenile Court Law.

B244603

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

(Los Angeles County  
Super. Ct. No. CK94504)

Plaintiff and Respondent,

v.

MICHAEL R.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County.

Philip Soto, Judge. Reversed.

Rich Pfeiffer, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Denise M. Hippach, Deputy County Counsel, for Plaintiff and Respondent.

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## **SUMMARY**

The father, Michael R., appeals from the juvenile court's order of August 13, 2012, declaring his daughter, M.R., a dependent of the court under Welfare and Institutions Code<sup>1</sup> section 300 and removing M.R. from Michael's custody under section 361.

On appeal, Michael contends that (1) substantial evidence did not support sustaining the petition; (2) he was denied due process because the juvenile court prohibited him cross-examining adverse witnesses and presenting favorable witnesses; (3) the juvenile court took jurisdiction in order to access his medical records to evaluate his use of medical marijuana; and (4) alternatively, there was no clear and convincing evidence of risk or serious harm to M.R. We agree with Father's due process contention and reverse.

## **STATEMENT OF FACTS AND PROCEDURE**

On July 10, 2012, the Los Angeles County Department of Children and Family Services ("DCFS") filed a section 300 petition ("Petition") on behalf of Father's then-12-year-old daughter, M.R., alleging M.R. had suffered, or there was substantial risk that she would suffer, serious physical harm or illness due to Father's failure or inability to supervise or protect M.R. adequately or because of Father's inability to provide regular care for M.R. due to Father's mental illness, developmental disability or substance abuse. Specifically, in count b-1 the Petition alleged that on July 5, 2012 Father possessed heroin, marijuana, alcohol, hypodermic needles and drug paraphernalia in a hotel room within access of M.R., and the odor of marijuana permeated the hotel room. Count b-1 further alleged that Father was arrested on July 5, 2012 for child endangerment and possession of marijuana. In count b-2, the Petition alleged that Father had a history of illicit drug and alcohol abuse and was a current abuser of marijuana and alcohol, rendering him incapable of providing M.R. with regular care and supervision, and that on

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<sup>1</sup> Statutory references are to the Welfare and Institutions Code unless otherwise indicated.

July 5, 2012 Father was under the influence of marijuana and alcohol while M.R. was under his care and supervision. In count b-3, the petition alleges that Father placed M.R. in an endangering and detrimental situation on July 5, 2012 as Father left M.R. alone in a hotel room without adult supervision for an extended period of time.

Also on July 10, 2012, DCFS filed a Detention Report (“Detention Report”), stating that M.R. had been placed in a foster home. The Detention Report stated that on July 5, 2012 at approximately 5:00 p.m., the Los Angeles Police Department responded to the Woodland Hills Marriot in response to a call from the day before, July 4, 2012, from hotel security reporting drug paraphernalia found in a hotel room from which Father and M.R. had moved out on July 2, 2012.

The Detention Report, and the attached police report, indicated that Michael and M.R. had been moved into two rooms, and when police knocked on the door of the first room, M.R. answered the door. The officers saw that the room was unkempt with dirty clothes and thong-style underwear strewn about and a foul odor emitting from the dirty clothes beyond the typical smell of dirty clothes. The officers found no food in the room and noted M.R. was alone in the room and her hair was dirty and stringy as if she had not bathed recently. Officers then knocked on the door to the second room where a strong smell of marijuana smoke was emanating from under the door. Officers initially did not receive a response to their knocks and banged loudly and shouted and Father came to the door. Father exited the room and, in response to the officers’ question, denied anyone else was in the room. Officers had caught a glimpse of what appeared to be a young girl running through the room. Concerned that another child might be in danger, officers pushed open the door and directed the girl out of the room. The female was identified as Mary Zeiser, a 23-year-old woman with a much younger appearance.

According to the Detention Report and the attached police report, Father was informed about the heroin and related paraphernalia found in the prior room and Father denied using heroin, suggesting that one of his guests may have left it in his prior room. Father indicated that he had only marijuana and bourbon in his room and that it was all sitting out and officers could see it for themselves. Officers observed the bourbon but did

not see marijuana and Father indicated that Zeiser must have hidden it and asked her to show officers where it was. Zeiser showed officers marijuana hidden in two drawers. Officers asked Father if he had a medical marijuana recommendation and he indicated that he did not. Officers observed that Father had a strong odor of alcohol on his breath, an unsteady gait, trouble choosing words and occasionally slurring them, his clothes were noticeably dirty and his fingernails were noticeably long and dirty underneath. Father denied having a problem with alcohol, saying M.R.'s mother had a problem with alcohol and that was why she was not around. Father also explained that his insurance company was paying for the hotel stay due to repairs to his home from a water leak that caused extensive damage. Father then explained that he was possibly involved in insurance fraud.

Based on the totality of the circumstances on July 5, 2012, officers formed the opinion that M.R. was potentially endangered and Father was not able to provide for her needs and provide a safe environment. Officers were also aware of prior police contacts with M.R. related to alleged abuse or neglect. Officers detained Father and M.R. and transported them to the police station.

At approximately 8:00 p.m. on July 5, 2012, a DCFS social worker interviewed M.R. at the police station. The social worker noticed that M.R. had a strong, foul body odor and appeared disheveled with uncombed hair and grungy, mismatched attire. There were no visible marks, bruises, or scars indicative of abuse or neglect. M.R. denied any inappropriate touching in the past. M.R. stated that she had been taught about drug awareness and "seen stuff on TV, but never in real life" and then offered that she did not know that there were needles and drugs in the hotel room, elaborating that she overheard officers talking with Father earlier. M.R. indicated that she has lived with Father since an early age, stating that her mother left her when she was three years old.<sup>2</sup> M.R. also indicated that she and Father had been living at the hotel since May 2012.

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<sup>2</sup> M.R.'s mother is not a party to this appeal and no allegations were filed against her in the Petition.

The social worker also interviewed Father. Father explained that he was asked to move to different rooms because the rooms he had been in had been booked for the Independence Day holiday. Father denied using heroin and denied knowing anyone he was with had used heroin in his presence, although he later acknowledged that the drug paraphernalia could have been brought to his old room by one of his guests.

Father “denied having a criminal history and/or prior arrest [contradictory to law enforcement’s reports].” Father had a prior arrest in 2005 for assault with a deadly weapon (firearm). Father admitted to using marijuana and not having a medical marijuana recommendation. Father acknowledged prior DCFS investigations for general neglect stemming from teachers believing M.R. was too skinny and another investigation stemming from M.R. biting herself. Father described M.R. as having “special emotional needs” and stated that M.R. had a service dog to help her deal with emotional and abandonment issues from her mother leaving. Father denied having a mental health history and denied abuse or neglect of M.R.

The Detention Report indicated that M.R. was categorized as being at “High Risk” for future abuse or neglect. Among the risk factors the Detention Report identified were Father’s use of an illegal controlled substance, Father having heroin accessible to M.R. or allowing other drug users to have access to M.R., Father’s and Zeiser’s admitted drug and alcohol use and inebriated condition while M.R. was in Father’s sole care and custody in another room.

The Detention Report also noted nine prior DCFS investigations for general neglect and physical abuse with dispositions of inconclusive or unfounded.

At the July 10, 2012 detention hearing, Father was present and through counsel argued that the heroin and drug paraphernalia found in his old hotel room were not found in Father’s possession and no link was made to Father, and therefore there was no danger to M.R. The juvenile court found that a prima facie case was established for detention of M.R. from Father and placed her in foster care. Father requested, and the court ordered, random drug testing of Father. The court ordered monitored visits. The matter was continued to August 13, 2012.

In an August 13, 2012 Jurisdiction/Disposition Report, DCFS reported that M.R. stated that she and Father had been residing at the hotel since May 2012 and changed rooms in July 2012. M.R. said that she heard something related to drugs was found in the old room and suggested that “a friend” could have brought the item or the hotel might have set up Father because he made complaints. M.R. also stated that about a month earlier,<sup>3</sup> she saw “a friend” with “spots” on her arms and hives on her body who spent a long time in the bathroom and who left for a few hours and returned with her arm “scarier.” M.R. also stated that she read a report about a “cut [soda] can” used to smoke something, that she never saw it and that her Father “doesn’t do anything like that.”

M.R. also stated that when police arrested Father, he did not smell like alcohol and was not drunk and that she knew what alcohol smelled like from walking by the hotel bar. M.R. stated that Father drank alcohol sometimes and gestured indicating about two inches and that he had gotten a bottle during the stay at the hotel and hardly drank anything. M.R. stated that Father does not use marijuana. She indicated that Zeiser had marijuana from a doctor for arm pain but “they” (presumably referring to the police) lied and “said it was on my dad, but it was in [Zeiser’s] backpack” and did not have a search warrant. M.R. also stated, “They’re lying about me for money. They make money from every kid they take away.”

In terms of being left alone, M.R. stated that she did not close the door to Father’s adjoining room except at night time. M.R. denied being left alone for long periods, stating she would wake up, watch television, shower and brush her teeth and after that her Father would open the door and they would go down to eat at the buffet. M.R. stated that she would spend the day with Father and Father would close the door at night time. She said that the report (presumably the Detention Report or police report) stating that she had dirty hair, had not showered and all her clothes were dirty was not true; she had showered that day and some of her clothes were clean.

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<sup>3</sup> M.R. was interviewed on July 24, 2012.

M.R. stated that Zeiser usually did not stay at the hotel with Father, but did the day of the incident because Father had high blood pressure and was under stress and Zeiser was worried Father would have a heart attack. On the day police officers came, Zeiser and Father were in his room with the door closed because they were having an “adult conversation” and M.R. was not allowed to hear. M.R. said it was rare that Father had “adult conversations” but that once she called him over and over and was knocking repeatedly on the door and he would not answer for 10 to 20 minutes so that M.R. was “red face frustrated.”

According to the Jurisdiction/Detention Report, Father indicated that he had a dispute with the manager of the hotel because the door to his room was left open by housekeeping when he returned from taking M.R. to school and because of trash in the parking area. Father stated he wrote emails to the manager, including a “scathing” email on July 4, 2012 and that the manager does not like Father. Father stated that he had never seen the cut soda can before and it was not his. Father stated he did not know where in the old room hotel staff found the heroin paraphernalia but that Father and M.R. moved their belongings themselves to the new room and checked every drawer. Father also questioned why hotel staff did not report paraphernalia sooner if they were so concerned.

Father also denied that there was a smell of marijuana from his new room and stated that police just used that as an excuse to enter the room. Father said that no marijuana was consumed on that date. Father claimed he asked police to conduct a sobriety test and when they declined, he had himself drug-tested at a hospital. Father acknowledged that the hospital’s report shows that he tested positive for THC. Father said that the marijuana found in his hotel room belonged to Zeiser.

Father stated that he had closed the door to have a cocktail with Zeiser but that M.R. could have knocked on the door or called Father if she needed him. According to the Jurisdiction/Disposition Report, Father also alleged that police officers “were disenchanted and needed to find something.”

Father also stated that he has no association with drugs or people who use drugs. Father also claimed that no marijuana is consumed around the child ever. During

Father's interview on August 6, 2012, he provided DCFS with a copy of his physician's recommendation for marijuana and stated that he did not have the recommendation at the time of the incident. The physician recommendation attached to the Jurisdiction/Disposition report indicates that it was issued on July 19, 2012. Father stated that he uses marijuana on an ongoing basis, that he used it two to three times a week, and also that he uses it "occasionally." A drug test report attached to the Jurisdiction/Disposition report indicates that Father tested positive for cannabinoids on July 23, 2012 and August 2, 2012.

According to the Jurisdiction/Disposition Report, Father said the charges are because it is hard for people to accept that he is a single father with a daughter and that "this wouldn't happen in a two parent home."

The Jurisdiction/Disposition Report also indicated that the hotel manager stated that housekeeping found the drug paraphernalia in the old room as soon as the family vacated the room, but that it was not brought to his attention until a couple days later and then reported it to law enforcement. The hotel manager stated that Father had "tremendous mood swings" and always had people coming and going from his rooms. The hotel manager directed further questions to the director of housekeeping.

According to the Jurisdiction/Disposition Report, Zeiser spoke to DCFS and stated that she had known Father and M.R. since 2008. Zeiser stated she had no safety concerns regarding M.R. Zeiser stated she was not comfortable speaking by telephone about the July 5, 2012 incident but did not have transportation to meet the social worker.

The Jurisdiction/Disposition report noted that Father and M.R. "have a strong bond and enjoy their time together" and that Father had been consistent in visiting M.R.

On the morning of the August 13, 2012 trial, Father filed a nine-page declaration with five exhibits. In his declaration, Father stated that M.R. has been under his custody since she was four years old and that he requested an Individualized Education Program for her in the sixth grade. He described his efforts to get her enrolled in a highly regarded middle school, including summer school, as well as tutoring and the conflict it created with teachers. His declaration described the water damage and repair of his home that

lead to Father and M.R. staying at the hotel and also described his conflict with the hotel manager and included copies of the emails he sent to the hotel manager. Father's declaration also made several complaints against M.R.'s foster parent.

At the August 13, 2012 trial, the juvenile court admitted Father's declaration and its exhibits into evidence, over DCFS's hearsay and foundation objections, stating it would "take it for what it's worth." The court also admitted DCFS's Jurisdiction/Disposition Report and all its attachments, which included the Detention Report. Both minor and DCFS submitted the case without calling witnesses. Father had multiple witnesses present for the trial—the current foster mother, the hotel front office manager, the executive secretary to the hotel manager, the hotel security manager, Father's claims adjuster, as well as Zeiser.

Father's counsel indicated that she wanted to call witnesses and to call Father as the first witness. The court asked for an offer of proof, stating that the court had spent a considerable amount of time with Father's declaration and asking what he would testify to that was different. In response, Father's counsel offered, "If you like, we can proceed and call [M.R.]." Counsel for DCFS asked for an offer of proof, noting that M.R. had been interviewed and her statements were in the DCFS report, and the court agreed, asking what M.R. was going to testify to that was different from the reports. Father's counsel argued that "there's a lot for [M.R.] to say" and that "what she does have to say is extremely important." The court concurred, noting that "I agree with you and that's why we have it documented in the report from [DCFS]. So this would be an opportunity to try to undermine those statements" and asking "[w]hat offer of proof do you have . . . and stating "I don't see what's been given to this Court so far that's going to demonstrate that she's going to testify in a different fashion from the reports that have been given." Father's counsel responded, "Understood, Your Honor. We will call Ms. Zeiser at this time." The court again asked for an offer of proof on what Zeiser would testify to, noting that the court had read her statements from the report too. Father's counsel responded that Zeiser's statements were "quite limited" due to her inability to meet in person with the DCFS social worker and Zeiser was present with Father the evening of July 5, 2012

and had a “lot of relevant information to state that’s not contained within the report.” The court then allowed Zeiser to testify.

Zeiser testified that she had known Father for about five years, that she spent time with Father about once a week. When Father’s counsel asked if Zeiser knew Father fairly well, counsel for DCFS objected on relevance grounds and the court sustained the objection, asking counsel to get to the night of the incident. According to Zeiser, on the morning of July 5, 2012 she met up with Father while M.R. was at school. Zeiser was with Father when police knocked on the door. Father opened the door and saw M.R. outside with the police. Zeiser had seen M.R. thirty minutes earlier.

Zeiser has a recommendation for and uses medical marijuana. Police searched her belongings and found her marijuana on the day of the incident. Zeiser denied that Father was using any “illegal drugs” before police arrived and stated that Father “does not use illegal drugs.” Zeiser stated that she had never seen Father in possession of any drug paraphernalia.

Father’s counsel then asked if police officers showed Zeiser photos of the drug paraphernalia or any photos, and DCFS counsel objected on relevance grounds. The court reminded Father’s counsel that the trial was scheduled for half an hour and suggested that “you want to save yourself some time to argue, you will have to start making decisions about the questions that you’re asking your witness.” When Father’s counsel explained that Zeiser’s testimony would establish that the search was illegal and the marijuana found belonged to Zeiser, the court responded that it was not “running a suppression hearing” as there was no notice for one and that Zeiser had already said the marijuana was hers. The court also stated, “I’m trying to give you and especially your client a fair hearing here, and I realize that you don’t do this often in my court, but there’s no notice for a suppression hearing. . . . [Y]ou are just using up time that you may want to argue about what should happen in the rest of the case. I’m trying to let you know that it’s time to really pick and choose the questions that you are asking and who you are calling, because you are using what valuable time you do have.”

Zeiser then testified that M.R. was in an adjoining room and Zeiser had contact with M.R. every couple of minutes. Under questioning from the court, Zeiser stated that there was a door between the two adjoining rooms that was open and shut every so often for contact between M.R. and Father, and M.R. and Father had full access to each other's rooms. Under cross-examination, Zeiser confirmed her prior testimony that it had been thirty minutes since she had seen M.R. when the police arrived and stated she did not know if the door between the two rooms was locked, stating it "may have been."

Father's counsel then indicated that she would call the hotel security manager who was the reporting party listed on the hotel security incident report. The court asked for an offer of proof, noting that the court had read the documents and admitted them into evidence, and asked how the security manager's testimony is "going to be different or in addition to that." Father's counsel stated that the Petition and reports were vague as to when the contraband was found, both the security manager and the hotel manager have been indicated as the person making the report, Father had not been in the old room for several days, Father had reported an incident when his room door was left open and unattended, and that other people had been in the old room from the time he moved from it and the date the police came. The court noted that most of what Father's counsel stated was in Father's declaration and limited questioning of the security manager to when the contraband was found and the report made.

The security manager testified that he first became aware of the contraband on the afternoon of July 4, 2012 when it was given to him by the housekeeping department. He stated that he stored the contraband in the hotel security office and waited for instructions on what to do with it. The security manager stated that the hotel typically destroys any paraphernalia found but did not, he believes, because a child was involved. The security manager did not know the name of the specific housekeeping staff member who found the contraband and did not know where in the room it was found.

When Father's counsel asked the security manager if to his knowledge Father was a heavy drinker, counsel for DCFS and minor objected and the court sustained the objection, stating "I'm not going to give you any more leeway if you are going to go off

on things that we already told you are not in the ball park.” Father’s counsel then elicited from the security manager that he believed Father changed hotel rooms but the security manager did not know if anyone else stayed in Father’s old room after he moved out.

Father’s counsel then stated she wanted to call the hotel front desk manager, stating that the front desk manager was aware of complaints from Father about the hotel prior to July 5, 2012 and communications between Father and the hotel manager in which Father may have come off as arrogant. The court responded that it did not “see how that testimony is different from [Father’s] declaration.” Father’s counsel stated that she wanted to show that there was a “vendetta” against Father, noting that there were issues between Father and manager, the hotel typically destroys evidence but in this case the manager had staff call the police, other people had stayed in the room after Father vacated, the door to Father’s room was left open on a prior occasion by housekeeping and there was no direct link between Father and the paraphernalia found. The court responded that it did “not see how you will get that from this witness. I understand where you’re going, counsel. Your client has made his opinion aware [sic] to this court.”

The court then asked if Father had any other witnesses. Father’s counsel stated that she had the insurance claim adjuster who could testify that Father did not commit insurance fraud. The court asked where in the Petition there was an allegation of insurance fraud and Father’s counsel responded that it was in the police report. The court responded that it went by the Petition and tries to find out whether or not the evidence by DCFS supports that by a preponderance of the evidence and there was nothing in the Petition about insurance fraud and “frankly, even if that was proven, it really is not something that I would find that’s going to put the child at risk.”

Father’s counsel stated that there was an allegation that Father was homeless, but the court stated that the Petition did not allege Father to be homeless or unable to provide a home that was not dangerous to M.R and concluded “we are not going to go into that.”

Father’s counsel then asked to call M.R.’s foster mother and stated as the offer of proof that there was a serious incident that occurred in foster mother’s care that would

demonstrate that M.R. would be much safer with her Father than in her current foster home. The court denied the request.

Father's counsel then asked to call a police detective to show that he refused to give Father a drug test on July 5, 2012, but that detective was not present at the hearing. Father's counsel then raised the fact that Father was not arrested on the night of the incident and the court stated that it did not believe anyone was contesting the fact that he was not arrested. The court, however, noted that not being arrested and charged with a crime does not mean there is not enough evidence for DCFS to take the matter to juvenile court.

Father's counsel then wanted to call three witnesses from M.R.'s school to demonstrate that she had been flourishing at the school Father had enrolled her in and to attest to Father being a good father. The court denied the request, questioning how that testimony would differ from the evidence of good grades that Father had submitted with his declaration.

Father's counsel then asked that Father be permitted to make some statements to the court regarding M.R.'s current placement. And the court indicated that that was an issue for the adjudication portion and not the jurisdictional portion. Father then rested.

After argument from counsel, the court sustained all three counts of the Petition under section 300, subdivision (b), with a single change to delete the allegation that Father was "charged" with child endangerment after his arrest.

At disposition, counsel for minor stated that M.R. wished to return to Father but counsel believed there was a risk of harm at that time. The court then indicated to Father's counsel that it would need to know why he was using medical marijuana and determine whether there was an alternative treatment for the condition that had not been fully explored. Father's counsel indicated that he suffered from "debilitating migraines and also IBS" and that he had tried traditional treatments and none had been successful. Father's counsel also stated that, as indicated to the social worker in the Jurisdiction/Disposition Report, Father did not use marijuana every day and that sometimes a month could go by without him using marijuana and asserted that Father had

no history of actual abuse or neglect from his marijuana use. The court stated that it would need to see medical records showing his conditions and attempted traditional treatments and until then the court was “duty bound” to ensure that Father was not misusing marijuana and Father would be required to go through a drug and alcohol treatment program and test on demand. The court noted that “[w]e’re trying to help your family. There was a problem. It’s not the worst problem I’ve ever seen. Okay? Let’s put that on the table. I have seen a lot worse. This is something that can be fixed.”

The juvenile court declared M.R. a dependent of the court and removed from Father’s custody, ordered reunification services and monitored visits.

Father filed a timely appeal.

### **DISCUSSION**

On appeal, Father argues that the evidence was insufficient for the juvenile court to sustain the three counts in the Petition against Father under section 300, subdivision (b). In addition, Father contends that he was denied due process as he was prohibited from testifying on his own behalf or calling supporting witnesses. Father also contends that his use of marijuana for medical purposes did not support the court taking jurisdiction and that the court had an improper motivation in taking jurisdiction of M.R. so it could force Father to disclose his medical records. Last, Father contends that there were reasonable alternatives to removing M.R. from Father’s care and custody.

In his reply brief, Father informed this court that on March 15, 2013, the juvenile court terminated jurisdiction and returned M.R. to Father’s care and custody. Father argues that the termination of jurisdiction does not render his appeal moot and quotes case law stating that “jurisdictional findings could affect Father in the future . . . .”

“As a general rule, an order terminating juvenile court jurisdiction renders an appeal from a previous order in the dependency proceedings moot.” (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1488, citations omitted.) Nonetheless, we decide dismissal under these circumstances “on a case-by-case basis” as an issue “is not moot if the purported error infects the outcome of subsequent proceedings.” (*Ibid.*) Here, counsel for DCFS

conceded at oral argument that Father's petition was not moot. Accordingly, we address the merits of Father's appeal.

Reviewing Father's due process claim, we conclude the juvenile court abused its discretion in using a rigid half-hour time limit for the trial and not allowing Father, a party to the action, and M.R. to testify. Parents have a fundamental liberty interest in the care, custody, and management of their children and the state cannot deprive parents of this interest without due process of the law. (*Santosky v. Kramer* (1982) 455 U.S. 745, 753; *In re Malinda S.* (1990) 51 Cal.3d 368, 383, fn. 16.) Due process requires the application of a flexible balancing standard. (*In re Malinda S.*, *supra*, 51 Cal.3d at p. 383, fn. 17.) "The balancing standard considers the private interest that will be affected by the agency's action, the risk of an erroneous deprivation of that interest, the interest in informing parents of the basis for and consequences of the action and in enabling them to present their side of the story, and the agency's interest in expeditious decisionmaking . . . ." (*In re James Q.* (2000) 81 Cal.App.4th 255, 267; *In re David B.* (2006) 140 Cal.App.4th 772, 780.)

The juvenile court has the duty and power to "control all proceedings during the hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the person upon whose behalf the petition is brought. . . ." (§ 350, subd. (a)(1).) Accordingly, as a general rule, the due process right to present evidence is limited to "relevant evidence of significant probative value to the issue before the court." (*In re Jeanette V.* (1998) 68 Cal.App.4th 811, 817.) Indeed, even in criminal proceedings, "the trial court may properly request an offer of proof if an entire line of cross-examination appears to the court to be irrelevant to the issue before the court." (*Ibid.*, citing *People v. Allen* (1986) 42 Cal.3d 1222, 1270 & fn. 31.)

Nonetheless, parents in dependency proceedings have a due process right to be "heard in a meaningful manner." (*In re Lesly G.* (2008) 162 Cal.App.4th 904, 915 & cases cited.) This means that, "in particular circumstances," a parent must be afforded "a 'meaningful opportunity to cross-examine and controvert the contents'" of DCFS reports,

including hearsay statements contained within those reports. (*Jeanette V.*, *supra*, 68 Cal.App.4th at pp. 816–817.) “The essential characteristic of due process in the statutory dependency scheme is fairness in the procedure employed by the state to adjudicate a parent’s rights.” (*In re James Q.*, *supra*, 81 Cal.App.4th at p. 265.)

Balancing the interests involved, we find that the dependency court’s rigid application of a half-hour time limit for trial and refusal to allow Father and M.R. to testify to be an abuse of discretion. We further find the error was prejudicial. The standard where a parent is deprived of a due process right is whether the error was harmless beyond a reasonable doubt. (*M.T. v. Superior Court* (2009) 178 Cal.App.4th 1170, 1182.) Here, heroin paraphernalia was allegedly found in Father’s old hotel room and given to the hotel security manager two days after Father had already vacated the old room. The court, however, did not allow Father to testify and no testimony explained the delay in reporting the discovery. Under the circumstances, we cannot conclude that the court’s error was harmless beyond a reasonable doubt.

#### **DISPOSITION**

The judgment of the juvenile court is reversed.

NOT TO BE PUBLISHED.

CHANNEY, J.

We concur:

MALLANO, P. J.

JOHNSON, J.